

### REMARKS

Claims 4, 5, 7, 16, 17, 19 -24 remain pending in the present application.

Reconsideration is respectfully requested.

In the Office Action, claims 4, 5, 7, 16, 17, 19 -24 were rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement. Specifically, the Examiner again alleges that there is insufficient support for the limitation of cereal sugar. Applicants respectfully submit that this is incorrect. For instance, page 7, lines 5-7 of the specification clearly describe the liquid adjunct as comprising, among other things, maltose. Maltose is present in malt barley, a cereal. (See the attached excerpt from Hawley's Condensed Chemical Dictionary, Twelfth Edition). Thus, the specification clearly supports a liquid adjunct comprising a cereal sugar.

In the Office Action, claims 4, 5, 7, 16, 17, 19-24 were also rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 4,329,433 to Seebeck *et al.* ("Seebeck") in view of U.S. Patent No. 6,265,000 to Shimamura *et al.* ("Shimamura") and Applicants admissions as applied by the Examiner in the previous Office Action, in further view of U.S. Patent No. 4,001,435 to Hirao *et al.* ("Hirao") and U.S. Patent No. 1,461,808 to Snelling ("Snelling").

In previous office action, the Examiner attempted to limit Applicants interpretation of cereal sugar to maltose. Applicants submit this is incorrect. Previously presented claims 22 and 24 clearly recite that the liquid adjunct, comprising a cereal sugar, includes dextrose, maltose and maltotriose. Maltose is cited by the Applicants merely as an example of a cereal-sugar. Further, page 7, lines 5-7 of the specification as filed clearly supports that the liquid adjunct is not limited to maltose.

Regarding Seebeck, the Examiner again relies on Seebeck as "broadly disclosing the use of fruit juices." However, Examiner assumes that any fruit juice with the required amount of sugar for fermentation would suffice. However, Seebeck discloses a continuous fermentation method for solutions such as grape juice. The yeast is first aerobically cultured in a nutrient solution and when the yeast reaches a certain concentration level, a fermentation media is continuously added to the cultured yeast for continuous fermentation. Nothing in Seebeck discusses aerating yeast suspended in a wort-free aqueous solution comprising liquid adjunct including a cereal sugar as recited in the present claims.

Further, throughout Seebeck, the nutrient solution is described as preferably being a fruit juice, and the fermentation media is described as "preferably" being a fruit juice. In particular, Seebeck teaches fruit juices as the nutrient solution and the fermented solution. Applicants submit there is nothing to suggest replacing the fruit juice of Seebeck with a liquid adjunct comprising a cereal sugar such as maltose to produce beer. Therefore, Applicants respectfully submit that Seebeck does not make the use of a cereal sugar to aerate yeast suspended in a wort-free aqueous solution obvious to one of skill in the art.

While the present Office Action is silent regarding Shimamura, Applicants submit that Shimamura cannot be used to render the present claims obvious because Shimamura teaches the production of a beer-like product where the yeast can be cultured in moto or a wine (the "yeast-containing output" of Shimamura). In contrast, the present claims recite aerating the "yeast-containing output". However, the Examiner maintains that Seebeck does teach this. Applicants submit that even if Seebeck does teach aerating the yeast-containing output, nothing in the Seebeck, Shimamura, Hirao or Snelling references makes it obvious to modify the yeast cultured in moto or wine to the yeast aerated in the present claims.

Hirao is cited as disclosing that fruit juices with maltose are known. However, nothing in Hirao suggests that using fruit juices, even those fruit juices containing maltose, will be successful in producing beer (as recited by the present claims). Examiner alleges "it would have been obvious to use a fruit juice containing maltose, as taught by Hirao, in the invention of Seebeck.". Applicants respectfully suggest that Examiner is improperly partaking in hindsight construction. There is nothing to suggest that it would be obvious to use maltose from fruit juice in producing beer. For example, if the fruit juices of Seebeck, Shimamura, Hirao and Snelling were to be added to wort, the fruit juice will not yield a final product having a flavor profile like that of beer. In contrast, using a liquid adjunct comprising a cereal sugar such as maltose, as recited in the present claims, will produce a final product having the desired flavor profile: beer.

In short, none of the cited references, either alone or in combination, teach or suggest aerating yeast suspended in a wort-free aqueous solution comprising a liquid adjunct including a cereal sugar as recited in the present claims. Further, nothing in the cited references teach or suggest that using a cereal sugar provides advantages when producing beer.

Accordingly, it is respectfully submitted that claims 4, 5, 7, 16, 17, 19-24 are patentable over the cited references. Favorable reconsideration is respectfully requested.

No other fees are believed to be needed for this amendment. However, if other fees are needed, please charge them to deposit account 17-0055.

Respectfully submitted,

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